UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/2002/36
10 June 2002

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-fourth session
Item 6 of the provisional agenda

OTHER ISSUES

Promotion and consolidation of democracy

Expanded working paper by Mr. Manuel Rodríguez Cuadros on the measures provided in the various international human rights instruments for the promotion and consolidation of democracy, in accordance with the mandate contained in decision 2000/116 of the Sub-Commission on the Promotion and Protection of Human Rights

GE.02-13984 (E) 120702 160702

I. INTRODUCTION

1. At its fifty-third session, in its decision 2001/114 entitled "Promotion and consolidation of democracy", the Sub-Commission on the Promotion and Protection of Human Rights requested me to prepare an expanded version of my working paper on the measures provided in the various international human rights instruments for the promotion and consolidation of democracy (E/CN.4/Sub.2/2001/32), for submission to the Sub-Commission at its fifty-fourth session.

2. The above-cited working paper was prepared with a view to conceptualizing the relationships between human rights, democracy and the rule of law and, on that basis, to analysing the regulations concerning democracy and political rights contained in the various international human rights instruments for the promotion and protection of democracy as a human right or in the context of the realization of political rights. The paper also presented a synthesis of the various regional provisions and legal instruments that establish democracy as an enforceable legal obligation entered into freely by States in exercise of their sovereignty. Finally, in recognition of the fact that democracy is becoming increasingly widespread, the paper identified some of the most serious problems that reduce its effectiveness.

3. At its fifty-eighth session, the Commission on Human Rights, in its resolution 2002/46, took note with interest of the working paper on the measures provided in the various international human rights instruments for the promotion and consolidation of democracy, submitted in accordance with the mandate contained in decision 2000/116 of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2001/32) and requested the Sub-Commission to continue with that mandate.

4. This expanded paper stresses the standard-setting aspects of the emerging international regime of human rights and democracy, and also the experience of various international organizations in implementing international standards on the promotion and protection of democracy.

5. At its fifty-sixth session, the Commission adopted resolution 2000/47 on the promotion and consolidation of democracy, in which it calls on States to consolidate democracy through the promotion of pluralism, the protection of human rights and fundamental freedoms, maximizing the participation of individuals in decision-making and the development of competent and public institutions, including an independent judiciary, effective and accountable legislature and public service and an electoral system that ensures periodic, free and fair elections. It also contains a series of recommendations to States to take steps to promote, protect and respect all human rights and fundamental freedoms; to strengthen the rule of law; to develop, nurture and maintain an electoral system that provides for the free and fair expression of the people's will through genuine and periodic elections; and to strengthen democracy through good governance, by improving the transparency of public institutions and policy-making procedures and enhancing the accountability of public officials, by promoting sustainable development and by enhancing social cohesion and solidarity.

6. The concepts and norms of Commission on Human Rights resolution 2000/47 are related to those of its earlier resolution 1999/57, of 27 April 1999, entitled "Promotion of the right to

democracy", which is significant because it was the first text adopted by a United Nations body to recognize the existence of a right to democracy. Referring to developments in international law related to the recognition of democracy as a value under international protection and to its relationship with human rights, resolution 1999/57 recalls that the large body of international law and instruments, including the resolutions of the Commission on Human Rights and those of the General Assembly, confirm "the right to full participation and the other fundamental democratic rights and freedoms inherent in any democratic society".[1]

7. This view of the development of international law as being linked to democracy as a system of government that allows the realization of human rights is followed by the recognition that the right to development and the principle of the right to self-determination of peoples are concepts that are mutually interdependent with democracy and human rights.

8. Among the components of the right to democracy, resolution 1999/57 recognizes that the rights of democratic governance include the following: (a) the rights to freedom of opinion and expression, of thought, conscience and religion, and of peaceful association and assembly; (b) the right to freedom to seek, receive and impart information and ideas through any media; (c) the rule of law, including legal protection of citizens' rights, interests and personal security, and fairness in the administration of justice and independence of the judiciary; (d) the right of universal and equal suffrage, as well as free voting procedures and periodic and free elections; (e) the right of political participation, including equal opportunity for all citizens to become candidates; (f) transparent and accountable government institutions; (g) the right of citizens to choose their governmental system through constitutional and other democratic means; and (h) the right to equal access to public service in one's own country.

9. To define democracy in a purely academic sense is a complex task, not only because developments in concepts and political theory show a wide variety of viewpoints and approaches, but also because the word "democracy" has even been used to describe undemocratic regimes. It is even more difficult to define democracy in the context of international negotiations. Perhaps a more suitable interpretative approach might therefore be not to try to define democracy from the viewpoint of political philosophy, but to identify and define the basic legal and institutional elements that characterize it, so that their presence or absence in a political system would make it possible to determine whether or not the system is democratic.[2]

10. In its resolution 2002/46, entitled "Further measures to promote and consolidate democracy", the Commission on Human Rights made an unprecedented advance for the United Nations system by identifying the essential elements or attributes of democracy. Without seeking to provide a definition, the Commission produced a non-exhaustive list of these essential elements or attributes, without which no political system can be considered to be democratic: respect for human rights and fundamental freedoms, freedom of association, freedom of expression and opinion, access to power and its exercise in accordance with the rule of law, the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organizations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media.

11. The Commission's list of essential elements of democracy certainly outlines the basic prerequisites for the existence of a democratic system, with regard to both the expression of the sovereign free will of peoples to elect their rulers and the kind of State structure required to guarantee that expression of the people's will and related human rights.

12. If the sovereign will of the people is to be reflected in "the holding of periodic free and fair elections by universal suffrage and by secret ballot", the State must guarantee respect for the human rights and fundamental freedoms of its citizens. In order for electors to be able to express their preferences among the various forms of government, it is a sine qua non that, in particular, the Constitution should provide and offer guarantees for the exercise of "freedom of association" and "freedom of expression and opinion". These fundamental freedoms are, likewise, a prerequisite for "a pluralistic system of political parties and organizations", which in turn presupposes the existence of "free, independent and pluralistic media". In a further gloss on the essential elements of democracy recognized in Commission on Human Rights resolution 2002/46, the exercise of power in a democratic system must be "in accordance with the rule of law", which is supported by the "separation of powers" and, in particular, by the "independence of the judiciary". Finally, if democracy is to have the added value of being an effective way to exercise power, good governance must be based on "transparency and accountability in public administration".

13. Commission on Human Rights resolution 2002/46 represents a substantial advance in the political and legal consensus within the international community concerning the essential elements that need to be in place for a democratic system to exist. The fact that the resolution was adopted by a large majority in the Commission, with no votes against, gives greater legitimacy to this advance in standard-setting and paves the way for further developments in the near future in the international legal regime governing the promotion and protection of democracy. In this way, the *opinio juris* in the process of the international legitimization of a right to democracy is strengthened, as resolution 2002/46 is part of a wider process of developing norms for democracy as an enforceable obligation of States, which is largely taking place at the regional level. For example, in 1990 the Conference on Security and Co-operation in Europe adopted the Charter of Paris for a New Europe, in which member countries undertake "to build, consolidate and strengthen democracy as the only system of government of our nations". In addition, the recently adopted Inter-American Democratic Charter stipulates that "the effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member States of the Organization of American States".[3]

14. In this context, the purpose of the working paper I submit herewith for the Sub-Commission's consideration at its fifty-fourth session is to present in a systematic fashion the normative development of the international protection of democracy and the ways it is dealt with in universal and regional, legal and political instruments, with the emphasis on institutional and collective mechanisms to promote, consolidate and protect democracy, within the conceptual framework of the interdependence of human rights, democracy and the rule of law.

II. HUMAN RIGHTS, DEMOCRACY AND THE RULE OF LAW

15. In the modern world, human rights constitute a system of values and an international legal regime. The doctrine of human rights, from an axiological point of view, rests on the consideration that the human condition and human dignity entitle the individual to a set of essential rights. From the point of view of political theory, this set of human rights is worked out in the sphere of relations between the democratic State and the individual, on the assumption that action by a democratic State, the legitimacy of which is derived from an act of popular sovereignty, must recognize and guarantee the enjoyment of the fundamental freedoms and human rights of individuals. There is a clearly defined limit to the jurisdictional exercise of State power, especially in the personal sphere, in the form of respect for and non-interference in the exercise of fundamental freedoms and human rights, or a duty not to act. At the same time, however, the State has a duty to guarantee respect for the human rights of individuals, as reflected in individual or collective appeals to assert their constitutional rights in the face of undue interference by various State institutions.

16. Thus the legal relationship between the democratic State and the individual rests essentially on non-interference by the State authorities in the enjoyment of fundamental rights and on the exercise by the State of its duty to guarantee respect for human rights. With the establishment of second-generation rights, not only individuals, but also groups of individuals are recognized as the holders of rights, following the introduction of a collective entitlement to certain human rights in positive law. At the same time, the State governed by the rule of law accepts obligations to act. Economic, social and cultural rights, such as credit-related rights, are also part of the legal relationships between the State and the individual and between the State and the national community.

17. In this context, the relationships between the State and the individual and between the State and the national community, from a legal point of view and from the point of view of the exercise of political power, are determined by the structure of the State and the political system.

18. If the enjoyment of human rights depends on their recognition and guarantee by the State and the political system, and if the realization of individual and collective human rights requires a State structure and political system which do not interfere with, and which guarantee respect for, first-generation rights and which promote the realization of second-generation rights, the link between human rights and the political system of government is one of mutual interdependence. In this case, the interrelationship between democracy and human rights is determined by the effectiveness of the State structure and the political system of government in guaranteeing the free exercise and enjoyment of human rights.

19. Regardless of the debate about its definition and scope, democracy has a basis on which, at least in the sphere of constitutional and international law, there is universal consensus. The concept underlying democracy is the principle of self-determination of peoples as an expression of the people's sovereignty. As the people has the power to set up any political system, the latter must ensure that the people's sovereignty in this sense always lies in democratic expressions of

its will, that is, in free and genuine elections in which citizens exercise their right to elect representatives and to be elected, while enjoying freedom of expression, freedom of the press and freedom of association.

20. For the people's will to be expressed freely in these conditions, those who decide must constitute a majority of the social conglomerate. Historically, that majority has been achieved by making the right to vote democratic. However, it is not sufficient for the majority to express its will; democracy implies a free choice between alternatives and, consequently, a plurality of political parties or forces.

21. The expression of the sovereign will of the people through free and genuine elections, together with the enjoyment of human rights, including political rights and freedom of expression and association, is the main pillar of the relationship of mutual dependence between human rights and democracy. The rule of law, as a form of democracy, is essential to guarantee respect for fundamental freedoms and human rights, without which the will of the people could not be expressed in free elections. Free and genuine elections are, in turn, the only way to establish a functioning democratic authority (system of government or political system). At the same time, democracy implies that the democratically established authority is exercised within a State resting on the separation of powers, as a basic guarantee that individuals can exercise their rights and, in the event that these rights are violated by the State or its representatives, make use of constitutional and legal guarantees to demand respect for their rights by appealing to the constitutional or ordinary courts.

22. The rule of law, for its part, presupposes a form of organization whose main feature is that it uses the law to limit and control the use of power in order to safeguard freedom. From the political point of view, moreover, it entails basic principles aimed at ensuring that the people's sovereignty is never subdued by abuse of the State's authority. The rule of law requires at least three limitations on State authority: a material limitation, related to the respect for and guarantee of fundamental freedoms and human rights; a functional limitation, in the form of the separation of powers; and a temporal limitation, expressed as the periodic renewal of the people's will through free and fair elections.

23. In more specific terms, the rule of law means applying the principle of legality and constitutional rules, the separation of public powers, the recognition and safeguard of individual freedoms, civil, political, social, economic and cultural rights, administration of justice independent of the political power, control over the exercise of public authority, institutions that guarantee the enjoyment of fundamental freedoms and human rights, and the remedies of habeas corpus, *amparo* and the protection of citizens against administrative acts.

24. The basic elements of the rule of law are enshrined in the Universal Declaration of Human Rights. The Preamble to the Declaration establishes that human rights must be protected by the rule of law, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression.[4] The expression "rule of law", in the context of the Universal Declaration, should be understood as a reference to a constitutional rule of law, whereby the powers and limits of governmental authority, as well as the rights and freedoms of citizens, are recognized and established in a legal corpus which takes precedence over subordinate legislation, and whose approval or modification is subject to the sovereign will of the people.

25. Article 29, paragraph 2, of the Universal Declaration establishes that, in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.[5] Apart from recognizing the relationship between the State and the individual as a link based on the free exercise of fundamental freedoms and human rights, this provision establishes precise limits for State action on the assumption that certain restrictions may justifiably be placed on the exercise of human rights, although such restrictions, by their very nature, should be exceptional and temporary and should always be compatible with the principles and norms of a democratic society.

26. The Universal Declaration also refers to the independence of the administration of justice and the guarantees of due legal process which the State must ensure.[6] Article 8, which took its inspiration from the remedy of *amparo* introduced by the Mexican Constitution adopted on 5 February 1917,[7] gave universal effect to everyone's right to an effective remedy by the competent national tribunals, which allows them to take action under constitutional law for acts violating the fundamental rights recognized by the Constitution or by law.

27. The link between the rule of law and democracy was also established in the Universal Declaration, when it stated that the sovereignty of the people is the only legitimate source of governmental authority: "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."[8]

28. The International Covenant on Civil and Political Rights extends and develops the provisions linking human rights with the rule of law and democracy, especially with regard to the separation of powers, the independent administration of justice, the guarantees of due legal process and the provision of judicial remedies against any act by the State or State agents that is detrimental to individual freedoms and the human rights of persons. The provisions contained in articles 14 and 15, on judicial guarantees and due process, are particularly important in this respect.

29. The Covenant also enshrines the right to electoral democracy by providing for the protection of political rights, in particular the right to take part in the conduct of public affairs, directly or through freely chosen representatives, the right to have access, on general terms of equality, to public service, and, in particular, the right for all "to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".[9]

30. The references in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights to the elements that make up a democratic society, such as the limits placed by these two international instruments on any temporary restrictions which the law may impose on the exercise of fundamental rights and freedoms, recognize the existence

of a functional, normative and material interrelationship between the enjoyment of human rights and a democratic society. The two instruments thus prohibit any restriction on fundamental rights and freedoms arising from values, requirements or motives that are alien or contrary to a democratic society.

31. The interrelationship or relation of mutual dependence between human rights, the rule of law and democracy has also been given expression in the 1948 American Declaration of the Rights and Duties of Man (art. XXVIII), the 2001 Inter-American Democratic Charter (art. 7), the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the member States of the Council of Europe in 1950 (art. 11) and the American Convention on Human Rights, signed on 22 November 1969 (art. 29).

32. In the judicial practice of the European Court of Human Rights and the Inter-American Court of Human Rights, the interrelationship between democracy and human rights has been legally established on the basis of the provisions set out in those instruments. A number of court rulings have established case law with regard to the mutual dependence of human rights and democracy.

33. The Inter-American Court, in its judgements in the cases of *Velásquez Rodríguez/1968* and *Godínez Cruz/1989*, drew attention to the State's duty to be functionally organized in such a way as to permit the realization of human rights: the second obligation of the State parties is to "guarantee" the free and full exercise of the rights recognized in the Convention for any person under their jurisdiction. This obligation implies that the States have a duty to organize the whole governmental machinery and, in general, all structures through which governmental authority is exercised in such a way that they can legally ensure the free and full exercise of human rights.

34. The Universal Declaration of Human Rights and, subsequently, the International Covenants on Human Rights, could not refer directly to democracy as a right, since any attempt to do so was thwarted by the ideological confrontation arising from the cold war. Those instruments opted instead to separate out the basic elements of the rule of law and democracy and to deal with them as separate rights, particularly the right to free and fair elections, citizens' access to public service and the conduct of government on a non-discriminatory basis.

35. In the regional development of international human rights law, however, especially in the European and American systems, far more specific normative links were established between democracy and human rights, even during the cold war period.

36. The Charter of the Organization of American States (OAS), adopted in 1948, states in its article 3 (d) that "the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy."[10] In complementary fashion, the American Declaration of the Rights and Duties of Man maintains that: "Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free."[11]

37. In this way, the inter-American system, from its very beginnings, represented democracy as a common value, as a condition and as a system of government which must allow the realization of human rights, recognizing everyone's right to electoral democracy, on the basis of the periodic renewal of government authorities and the free and genuine exercise of the popular will in elections.

38. American international law has simultaneously developed principles and norms related to non-interference in internal affairs and self-determination. In theory, these would appear to contradict the obligation of OAS member States to be organized politically on the basis of representative democracy. This is not so, however: firstly because the rule which establishes the condition of a democratic and representative political system constitutes an international obligation agreed to in the free exercise of national sovereignty; and secondly because it expresses the dual character of the principle of self-determination, which has an internal component - in this case related to the sovereignty of the people expressed in free and genuine elections within democratic systems, which is raised to the status of an international undertaking - and an external component, related to non-interference by third countries in the internal affairs of an established democratic Government.

39. In this way, the idea emerges in the OAS Charter that democracy in the inter-American system constitutes an enforceable international obligation. As the norms and institutions of the inter-American system have gradually been developed, especially after the cold war, the binding nature of the institution of democracy has gradually been refined until it has given rise to undertakings of collective action for the defence and protection of democracy.

40. The Convention for the Protection of Human Rights and Fundamental Freedoms, which was signed in Rome in 1950 by the member States of the Council of Europe, was also drafted on the assumption that the realization of human rights implies the existence of a democratic political system operating under the rule of law.

III. GRADUAL INSTITUTIONALIZATION OF AN INTERNATIONAL REGIME FOR THE PROMOTION AND PROTECTION OF DEMOCRACY

41. As the Secretary-General of the United Nations has noted: "Within the original framework of the Charter, democracy was understood as essential to efforts to prevent future aggression, and to support the sovereign State as the basic guarantor of human rights, the basic mechanism for solving national problems and the basic element of a peaceful and cooperative international system."[12] This assumption was taken up as a much more explicit frame of reference in the Universal Declaration of Human Rights, and in General Assembly resolution 1514 (XV), which adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960.

42. These basic instruments of the United Nations were the initial points of reference upon which the Organization could base its action to promote democratic processes worldwide. However, their potential was held back by the nature of the ideological debate and the politics of

the cold war. Consequently, for several decades United Nations efforts in the area of democracy focused almost exclusively on the promotion and protection of political rights, particularly following the signing of the International Covenants and the development of United Nations protection machinery based on the Charter or on treaty provisions.

43. The end of the cold war brought with it a national and international environment more conducive for peoples to achieve their democratic aspirations. From the late 1980s, and especially from the start of the 1990s, there was a growing trend towards the universalization of democracy as a system of government, as a social and political process and as a value related to human rights.

A. The promotion of democracy and the holding of free and fair elections in United Nations practice

44. The Charter of the United Nations contains no direct reference to democracy. However, its provisions concerning the international trusteeship system (Chapter XII), and in particular Article 76 (b), aimed from the outset at the realization of democratic objectives, conceiving the trusteeship system within the broader objective of application of the principle of self-determination.

45. The interpretation by the United Nations of Chapter XII of the Charter and its normative link with the principle of self-determination helped almost all the United Nations Trust Territories to gain access to independence.[13] In the process, some democratic procedures were developed, with emphasis on the affirmation of fundamental freedoms, political rights (right to citizenship, right to vote), freedom of expression, freedom of the press and freedom of assembly, measures to combat discrimination on grounds of race, sex and religion, and recognition and promotion of the rights of women.[14]

46. From these limited beginnings, reflecting advances in the process of democratization from the end of the 1980s onwards, in 1988 the United Nations began to adopt resolutions and implement programmes and measures to promote democracy and the holding of free, periodic and genuine elections.

47. The experience of the United Nations in electoral verification and observation dates back to its activities in the Trust and Non-Self-Governing Territories, particularly in Namibia, where a complex and large-scale process culminated in the holding of free and fair elections, opening up the way for the country's independence.

48. Electoral verification and observation in Member States has its earliest antecedents in the United Nations mission sent to observe the plebiscite on the Panama Canal Treaties in October 1977, but electoral observation and verification in the context of democratic processes really began with the decision adopted by the Secretary-General pursuant to General Assembly resolution 43/24, establishing an agreement with the Nicaraguan Government to send a mission to observe the elections in Nicaragua.

49. The United Nations Observer Mission for Verification of the Elections in Nicaragua (ONUVEN) had the following mandates: to verify that the political parties were equitably represented in the Supreme Electoral Council and its subsidiary organs; to verify that the political parties enjoyed full freedom to organize and mobilize without any form of hindrance or external influence; to verify that all political parties had fair access to State radio and television; to verify that electoral registers were properly drawn up; and to inform the Supreme Electoral Council of complaints received and of any irregularities or interference detected in the electoral process.[15]

50. Starting from this experience, and with the development of democratic processes in every region of the world, United Nations activities in observing and assisting elections have increased, and have gone beyond simply supervising events on the day of elections, shifting to the "consolidation of institutions and processes which are essential to viable democracies".[16]

51. The objectives of United Nations electoral assistance are basically twofold: (a) to assist Member States in their efforts to conduct legitimate democratic elections in accordance with the international criteria laid down by international and regional human rights mechanisms; and (b) to assist in institutional capacity-building to enable the countries concerned to organize democratic, genuine and periodic elections, enjoying the confidence and acceptance of the political parties and electorate. With the increase in and growing demand for electoral assistance, the United Nations has been able to improve and standardize its methods and procedures, moving gradually towards a perception of the task that goes beyond the mere observation or supervision of the electoral process and gives priority to the establishment or strengthening of democratic institutions.

52. Between 1 October 1999 and 31 July 2001, the United Nations provided various forms of electoral assistance to the Governments of Albania, Angola, Armenia, Azerbaijan, Bangladesh, Belarus, Benin, Burundi, Cambodia, Cameroon, Chad, the Comoros, the Congo, Côte d'Ivoire, East Timor, Equatorial Guinea, Fiji, the Gambia, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Kosovo, Lesotho, Mauritania, Mexico, Mozambique, Namibia, the Netherlands Antilles, Nicaragua, the Niger, Nigeria, Pakistan, Peru, Romania, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, the Sudan, Suriname, Tajikistan, Togo, Uganda, the United Republic of Tanzania, Venezuela, Yemen, Zambia and Zimbabwe.[17]

53. But it is not only the Secretariat that is involved in electoral assistance activities, as practically all the organs of the system have gradually become involved. In particular, the Electoral Assistance Division coordinates its work with the United Nations Development Programme (UNDP), the Department of Economic and Social Affairs, the Office for Project Services and the Office of the United Nations High Commissioner for Human Rights, also promoting the active participation of other civil society bodies and organizations that provide a source of external electoral assistance. Institutions that cooperate with the United Nations in electoral observation missions include the Commonwealth, the European Union, the Organization of African Unity, the Organization of American States, the Organization for Security and Co-operation in Europe, the Inter-Parliamentary Union, the Centre for Electoral Promotions and Assistance, the International Institute for Democracy and Electoral Assistance, the International Foundation for Electoral Systems, the National Democratic Institute for International Affairs and the Carter Center.

54. The characteristics and scope of electoral observation missions vary greatly, ranging from coordination and support of international missions, technical assistance to national electoral authorities, support for national electoral observers and limited observation, to the dispatch of electoral missions requiring a mandate from the General Assembly or Security Council. The latter are on a larger scale, since they may involve the verification and supervision of the electoral process and even the whole organization and management of that process. Such verification missions, usually linked with peacekeeping operations, have been conducted in Angola, El Salvador, Eritrea, Haiti, Liberia, Mozambique, Nicaragua and South Africa, among others.

55. These programmes conducted by the Secretariat are supplemented by the democracy-related components of the peacekeeping missions authorized by the Security Council and by the programmes for the promotion of democracy and the strengthening of the rule of law carried out by the Office of the United Nations High Commissioner for Human Rights and the specialized agencies. The United Nations also has a programme to support efforts by Governments to promote and strengthen new or restored democracies.

56. The United Nations maintains ongoing cooperation with the new or restored democracies and conducts a specific programme of assistance in coordination with UNDP.[18]

57. UNDP has increasingly been including the promotion of democracy and the rule of law as one of the aims of its programmes. This is reflected in the sums allocated to the expansion of programmes and projects to promote democracy. In the period between 1992 and 2000, the percentage of the UNDP budget allocated to democratic governance increased from 15 per cent to over 50 per cent. There was a tenfold increase in the sum allocated to democratic institution-building programmes; a fivefold increase in that allocated to promoting decentralization and local government; and a fourfold increase in that allocated to the development of civil society as a means of strengthening democracy.

B. Protective norms and mechanisms for the promotion and protection of democracy in the Americas

58. The legal interdependence between democracy and human rights was established at an early stage in the American continent. The American Declaration of the Rights and Duties of Man, adopted in 1948 some months prior to the Universal Declaration of Human Rights, recognized that the inter-American system of protection consisted of the functional combination of the provisions protecting human rights contained in the American Declaration itself and "the guarantees given by the internal regimes of the States".[19] The nature of this political regime was defined by the OAS Charter, which proclaimed that one of its purposes was to promote and consolidate representative democracy, with due respect for the principle of non-intervention.

59. The application of these basic provisions, which were aimed at the further development of standards, was limited and ambivalent within the context of the cold war. The confrontational strategies of democratic, revolutionary and nationalist forces, and those opposed to the status quo in general, committed the OAS policies that gave priority to the ideological struggle. In many cases, normative commitments to encourage democracy, respect human rights and defend the principle of non-intervention were ignored. Throughout much of the cold war, while the world

was divided into ideological blocs, the principles concerning the promotion of democracy and respect for human rights were overwhelmed by widespread instances of intervention, the overthrow of democratically-elected Governments, the establishment of military dictatorships and the massive and systematic violation of human rights.[20]

60. From the late 1980s onwards, constitutional Governments gained ground in the Americas and military regimes gradually disappeared. In the early 1990s, coinciding with the end of the bipolar tension and the transition to a new international system, democratic regimes spread across the region. The conditions were created for resuming the legislative initiatives on democracy that had been interrupted in the 1940s.

61. In 1985, with the adoption of the Protocol of Cartagena de Indias, representative democracy was recognized as "an indispensable condition for the stability, peace and development of the region". In 1990, the Unit for the Promotion of Democracy was set up within OAS to implement programmes and initiatives to promote the rule of law and the holding of free and fair elections. In 1991, the Santiago Commitment to Democracy and the Renewal of the Inter-American System was adopted, in which the ministers of foreign affairs of the Americas expressed their determination to adopt a series of effective, timely and expeditious procedures to ensure the effectiveness of representative democracy, with due respect for the principle of non-intervention.

62. In the same year, pursuant to this mandate, the OAS General Assembly adopted resolution 1080, which established a mechanism for collective action to restore democracy in the case of a sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by a democratically-elected Government. Resolution 1080 was implemented in the cases of Haiti (1991), Peru (1992), Guatemala (1993) and Paraguay (1996), but the results have been ambiguous. While in the cases of Haiti and Guatemala collective action was effectively designed to re-establish the impaired democratic order, in the case of Peru it amounted to the legalization of a "government coup" that dissolved Congress and gradually abolished the separation of powers, through the international recognition of the creation of a new parliament suited to the needs of a non-democratic Government.[21]

63. Subsequent to resolution 1080, the Protocol of Washington entered into force. The Protocol, which is binding in nature, introduced substantial amendments to the OAS Charter, granting OAS decision-making bodies the power to suspend membership rights from a State in which a de facto Government comes to power illegitimately by overthrowing a democratically-constituted Government.

64. Following the Peruvian experience, which showed the shortcomings and limitations in the practical application of the system, the Heads of State of the Americas, at their summit meeting in Quebec on 21 and 22 March 2001, adopted a democracy clause stating that the unconstitutional alteration or interruption of the democratic order in any of the countries would lead to the suspension of the country concerned from the Summit process. This clause goes further than the Protocol of Washington in that it refers not only to an interruption of the

democratic order but also to changes to it as a result of government coups, the unconstitutional dissolution of Congress or other acts affecting the basic institutions of a State governed by the rule of law.

65. As a follow-up to the democracy clause adopted at the summit, the OAS General Assembly adopted, at its thirty-first session, a resolution authorizing the Inter-American Development Bank to suspend disbursements or credit to Governments that had altered the democratic order or overthrown a legitimate Government. It is understood that the Bank can only use this authority if the OAS governing bodies give it the go-ahead.

66. Nevertheless, the most important normative advance in the inter-American system has been the recent adoption of the Inter-American Democratic Charter.[22] The Charter is an international instrument that standardizes the OAS provisions on the protection and defence of democracy, overcoming the limits and inconsistencies of earlier texts; more importantly, it recognizes democracy as a right and an enforceable obligation of member States. Under the Charter, there are three facets to the obligation of American States to adopt a democratic system: first, they are required to participate in the inter-American system; second, democracy is taken to be an objective or end which member States undertake to promote and develop both individually and collectively; and, third, they must be committed to taking collective action to restore the democratic order if it is altered or interrupted.

67. In this way, the Charter establishes a sort of collective security system to protect democracy, under which a Government may make a voluntary appeal for collective action to resolve problems affecting its democratic institutions or an illegitimate Government may be suspended from membership in cases where the democratic order has been interrupted or seriously altered.

68. In addition, the Charter contains provisions on democracy and human rights, on democracy, development and combating poverty and on the organization of electoral observer missions and the establishment of a democratic culture.

69. The recognition of democracy as a value that is related to the enjoyment of human rights in the Americas is not confined to the inter-American sphere. Various subregional bodies responsible for integration agreements or mechanisms for concerted political action and coordination have adopted democracy clauses by means of resolutions or treaty instruments. To varying degrees these clauses provide for suspension from membership of Governments that alter or break up the democratic system. Democracy clauses of this kind are part of the normative framework of the Andean Community, the Southern Common Market (MERCOSUR), the Rio Group and the Central American Integration System.[23]

70. These developments, which establish collective responses to any interruption or alteration to the democratic order, in some cases have a political connotation and in other cases are of a legal nature. A standard-setting process is thus under way in the Americas which recognizes democracy as an obligation and a duty and recognizes that to alter the democratic system may entail international responsibility.

C. Protective norms and mechanisms for the promotion and protection of democracy in Africa

71. In Africa, notwithstanding the numerous conflicts, the impact of poverty and extreme poverty on social and national cohesion and the ravages of the HIV/AIDS epidemic, social and State proponents of democracy have made significant progress. At no time in recent African history has electoral democracy been as widespread as at present. This has made possible recent moves, of obvious importance, to strengthen democracy and the rule of law.

72. The African Union has recognized democratic institutions as a common value and a factor in political identity. The Constitutive Act of this new regional organization, which supersedes the Organization of African Unity, was signed in Lomé, Togo, on 1 July 2000. The Act lists among its objectives the promotion and protection of human and peoples' rights, the consolidation of democratic institutions and cultures, and good governance and the rule of law.

73. Article 3 of the Constitutive Act establishes the objectives of the African Union, which include the promotion of popular participation and good governance and the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and the other relevant human rights instruments. Article 4 sets out the principles underlying the Union, including non-interference in the internal affairs of other States and respect for democratic principles, human rights, the rule of law and good governance.

74. Article 17 of the Act establishes the Pan-African Parliament. Article 18 sets up a regional Court of Justice, while article 23 deals with the imposition of sanctions on any member State that fails to comply with the decisions and policies of the Union. The sanctions comprise, in particular, denial of transport and communications links and other measures of a political and economic nature to be determined by the Assembly of the Union. Article 30 contains a democracy clause, similar to the clauses that exist in the Americas, whereby Governments that come to power through unconstitutional means will not be allowed to participate in the activities of the Union.

D. Protective norms and mechanisms for the promotion and protection of democracy in the Commonwealth

75. The 54 member States of the Commonwealth have also undertaken the twofold commitment to adopt standards to protect democracy as the system of government permitting the fulfilment of human rights and to set up mechanisms of collective action for the promotion and protection of democracy.

76. These developments have been made possible, as the Secretary-General of the Commonwealth has stated, because "a resurgence of popular aspirations for democracy and fundamental freedoms has been taking place, with coups d'états and military regimes falling into disfavour and many States moving from one-party rule to multi-party democracy. Non-governmental organizations and community groups have become increasingly active in articulating human rights concerns and campaigning for basic human rights, not only for victims of human rights abuses but also for politically and economically disadvantaged groups".[24]

77. The Harare Declaration (1991) contains a definite commitment to human rights and democracy. Among the principles guiding community action, it includes support for democracy, democratic processes and institutions, the rule of law, the independence of the judiciary, and fair and honest government.

78. The Declaration also reaffirms the commitment of member countries to the principles of individual freedom, equal rights for all citizens regardless of gender, race, colour, creed or political belief, and the individual's inalienable right to have a say in government decisions by means of free and democratic political processes.

79. In 1995, Commonwealth Governments adopted the Millbrook Action Programme in order to put into practice the principles adopted in Harare concerning the promotion and protection of democracy and human rights. An action group made up of ministers of foreign affairs was set up as a mechanism for dealing with and coordinating collective responses to serious and persistent violations of those principles.

80. The Commonwealth has ways and means of providing various forms of cooperation and technical assistance to deal with electoral and constitutional problems, to strengthen the rule of law and the judiciary, to improve governance, to send out electoral observer missions and to strengthen democratic culture and parliamentary practices.

81. In the event of a clear deterioration in democratic institutions or a coup d'état affecting a democratically-elected Government, the Commonwealth is empowered in the first instance to adopt measures to encourage a return to democracy within a reasonable period, including the dispatch of a commissioner or a mission to support the mediation work of the Secretary-General. If democratic institutions are not restored and a fair and free electoral process is not instituted within a reasonable time, additional measures are taken which may lead to the suspension of the member State and of technical assistance programmes.

E. Protective norms and mechanisms for the promotion and protection of democracy in Europe

82. Article 6 of the Treaty on European Union (the Maastricht Treaty) states that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the member States. This provision makes democracy a condition for entry to the European Union. In addition, article 11, paragraph 1, defines one of the objectives of foreign and security policy as being "to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms". The European Council in Copenhagen, held in June 1993, accordingly stipulated that countries wishing to join the European Union must have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities".[25]

83. Under the auspices of the Council of Europe, democratic rights and freedoms were enshrined in the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms and its subsequent protocols and in a number of other complementary instruments such as the 1961 European Social Charter (revised in 1996), the 1987 European Convention

for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the 1995 Framework Convention for the Protection of National Minorities. Democracy is an identifying factor and a requirement for membership of the Union and is seen as the social, institutional and political context within which the enjoyment of human rights and fundamental freedoms can be secured.

84. The Council of Europe has established a compulsory collective system to ensure respect for the principles of democracy and human rights, based on mutual cooperation and monitoring carried out through a set of political and legal monitoring procedures. Respect for intrinsic democratic values is not considered an exclusively internal matter but one that entails, on legitimate legal and political grounds, the responsibility of all member States, both individually and collectively. The Statute of the Council of Europe and the Council's practice determine its members' commitment to democratic values, the rule of law and the duty to guarantee the enjoyment of human rights.

85. In the event of persistent violations of human rights or non-compliance with monitoring procedures, the Council of Europe may adopt sanctions, which in extreme cases could lead to the suspension of the State concerned. However, the purpose of the monitoring mechanisms is not, ab initio, to impose sanctions but to identify problems and help overcome them. The task of the Committee of Ministers is thus to examine in a constructive way the questions brought before it with the aim of taking appropriate measures to uphold democratic and human rights standards.

F. Protective norms and mechanisms for the promotion and protection of democracy within the Organization for Security and Co-operation in Europe

86. The developments that have taken place in Eastern Europe and the transition to the rule of law and democracy are among the most dynamic changes to have occurred in the process of democratization in the world. The democratic borders of Europe have expanded and, notwithstanding the resurgence of ethnic and national conflicts, this is a trend that affects all European States. Against this background, the Organization for Security and Co-operation in Europe (OSCE), in its Copenhagen Declaration (1990), has established as identifying factors and requirements for membership a democratic system of government, the rule of law and the protection of human rights. Recognizing that internal tension or conflict cannot be ruled out owing to social and political changes, the Declaration places precise limits on any decision by a State to restrict human rights, in accordance with international standards and practice.

87. The Copenhagen Declaration covers not only the idea that freely elected Governments are essential for the protection of human rights but also its members' common commitment to protecting democratically-elected Governments under threat from acts of violence or terrorism.[26]

88. OSCE has an Office for Democratic Institutions and Human Rights, which is responsible for carrying out projects and programmes to strengthen democratic systems. It also has mechanisms to monitor situations in which the rule of law and the democratic system are harmed or jeopardized, through fact-finding missions, assessments and rapporteurs with specific mandates. The work of these mechanisms focuses on the protection and development of the ongoing processes of democratization.

G. Protective norms and mechanisms for the promotion and protection of democracy in States belonging to the French-speaking community

89. In the Bamako Declaration, adopted on 3 November 2000, States belonging to the French-speaking community reaffirmed their commitment to the basic principles of democracy as a system of universal values based on the recognition of human rights and the principles and norms of the rule of law. At the same time, they undertook to strengthen the institutions that could help consolidate the rule of law, encourage the renewal and modernization of parliaments, ensure the independence of the judiciary and promote free, credible and transparent elections.

90. The Bamako Declaration also lists a number of procedures for monitoring and implementing practices favourable to democracy, human rights and fundamental freedoms. These mechanisms include monitoring and preventive action and the adoption of specific measures in cases of serious irregularities in the democratic system. If crises occur, provision is made to send a mediator or facilitator, subject to prior acceptance by the State concerned, to seek mutually agreeable solutions. In the event of a collapse or breakdown of democracy, the issue may be taken up urgently by the Standing Council, which may make a public statement, send an observer mission or mission of good offices, and, if all else fails, adopt measures such as suspending the country concerned from meetings of its bodies or suspending multilateral cooperation, with the exception of programmes that benefit the civilian population or that are conducive to the re-establishment of democracy.

IV. THE EMERGENCE OF AN INTERNATIONAL REGIME ON DEMOCRACY AND HUMAN RIGHTS: THE RIGHT TO DEMOCRACY

91. The growing number of legal and political instruments that now recognize democracy as a universal value, together with the spread of norms adopted by States to promote and protect it subject to a certain international guarantee, including the introduction of so-called "democracy clauses", are gradually leading to the creation of an international regime on the institution of democracy and on its promotion and protection. An international regime can be defined as a set of principles, norms, rules, procedures, dispute-settlement mechanisms and, in some cases, coercive bodies, which govern the relationships between States in a given field or geographical area.[27]

92. Many of those writing about international human rights law are therefore beginning to consider democracy as a human right or, in the words of Hannah Arendt, as the right to have rights. The right to democracy, in this context, could be defined as the subjective capacity of individuals and peoples to demand of their rulers a political regime based on the rule of law and separation of powers, in which citizens can periodically elect their leaders and representatives in free and fair elections, on the basis of the interaction between a number of political parties, full respect for the exercise of the freedoms of expression, the press and association and the effective enjoyment of human rights.

93. Thus, Antonio Cancado Trindade, referring to the move four-and-a-half decades ago to lay the groundwork for the internationalization of the protection of human rights, has stated, "it

is possible that we are today about to enter the initial phase of an equally encouraging large-scale phenomenon with far-reaching implications, the international promotion of democracy itself and the rule of law".[28]

94. An international regime for the protection of democracy that is linked directly to human rights is already beginning to emerge, if one considers the normative protection structures already in place in Europe, the Americas and Africa, as well as developments in recent years in the United Nations legal framework and in international relations as a whole.

V. A HOLISTIC VIEW OF THE INTERRELATIONSHIPS BETWEEN DEMOCRACY, HUMAN RIGHTS AND THE RULE OF LAW COVERS ALL HUMAN RIGHTS, INCLUDING SOCIAL, ECONOMIC AND CULTURAL RIGHTS

95. The link between democracy and human rights is not limited to civil and political rights but necessarily covers economic, social and cultural rights as well as third-generation rights. Democracy does not stop with the formal structure of the rule of law or the indispensable periodic replacement of rulers following free and fair elections. The legitimacy of government vis-à-vis the governed needs to be established and constantly renewed. This implies the capacity to establish an inclusive relationship with all sectors of society, eliminating racism and all forms of xenophobia and respecting cultural and ethnic, as well as regional and national, diversity. Basically, however, the effectiveness of democracy as a system of government lies not only in the State's legal norms but also in a relationship between government and the governed that is based on social cohesion and on encouraging citizens and the institutions of civil society to participate in decision-making processes.

96. Democracy and the rule of law should not only ensure compliance with the duty to guarantee the enjoyment of civil, political and human rights, but should also be able to bring about the gradual realization of the economic and social rights of the population. In this context, the fight against poverty and extreme poverty, extreme social inequality and unfair income distribution is fundamental to legitimizing the exercise of power in a democratic system. From a sociological and political point of view, democracy should transfer powers so as to confer on the poor and marginalized members of society a form of citizenship that integrates them fully in the political and economic system and makes them directly responsible actors at the national, regional and local levels in economic and social development strategies and policies.

97. From this perspective, at both the national and the international level, human rights, democracy and the right to development are interdependent, as recognized in Vienna at the World Conference on Human Rights.

VI. THE REALIZATION OF HUMAN RIGHTS AND THE QUALITY OF DEMOCRATIC INSTITUTIONS: GOVERNANCE, RESPONSIBILITY AND THE FIGHT AGAINST CORRUPTION

98. Although in the past decade democracy has made unprecedented progress and is increasingly seen as a universal value linked to the exercise and enjoyment of human rights, in many countries, especially in developing regions, its effectiveness and functioning are in various

states of crisis. This is basically because in quite a lot of cases the limited and inadequate development of civil society, political parties and the rule of law has led to a situation in which representative democracy functions in practice as a sort of "democracy by delegation", in which democratically-elected Governments, once in power, lose their legitimacy, become detached from the electorate, unduly concentrate political power in the hands of a few and govern in a way that places the will of the ruler above the Constitution and the law, thus affecting the separation of powers and the functioning of the democratic political system.

99. In addition, there are other new threats to democracy, such as bad government and corruption. Corruption, in particular, is a problem that arises in all parts of the world, with serious consequences for governance and democratic legitimacy. When it becomes systematic and is associated with the exercise of political power, it pervades public institutions and establishes the kind of relationship between the citizen and the State in which the betterment of an individual or group, the illegal appropriation of State funds, the unpunished abuse of authority and collusion in the administration of justice delegitimize the very foundations of the rule of law.

100. Widespread corruption, by eroding the foundations of the rule of law, also tends to seriously undermine the protection of human rights, especially in relation to the loss of autonomy in the administration of justice and the attendant violations of due legal process. It is not exceptional for State corruption to be mirrored in limits on freedom of expression and of the press and in specific violations of human rights, including the rights to personal liberty and to life.

101. Good governance, or, to be more precise, best practice in good governance, requires a State administration that is capable of preventing and combating corruption. Judicial and administrative controls are important but not enough on their own. The monitoring of governmental integrity must also involve the media and civil society.

VII. FINAL THOUGHTS

(1) In the past two decades, the end of the system of power blocs left over from the cold war has speeded up the establishment of the external and internal conditions necessary for a wider dissemination of the intrinsic values of democracy and the rule of law, as part of the increasingly worldwide acceptance of human rights.

(2) Globalization, regardless of its ambivalent effects on the economic and social life of peoples, also promotes values like democracy and human rights, which increasingly enjoy international protection.

(3) The effects of this process are increasingly felt in the sphere of values and policy. Cultural and social exceptions or characteristics do not limit the protection of human rights or access to democratic systems. At the same time, the spread of democracy around the world does not clash with national particularities or cultural diversity, which, on the contrary, it takes as given and has a duty to promote.

(4) Since the end of the 1980s, the momentum towards democracy, which is basically an internal process corresponding to the democratic aspirations and struggles of peoples, has received an unprecedented boost.

(5) At the international level, this process is reflected in the adoption of norms and institutional structures linking democracy and the protection of human rights in a relationship of mutual dependence and incorporating, in some regions, the existence of legal and political mechanisms to promote and protect democracy.

(6) This process is leading to the emergence of an international regime on democracy and human rights that is based on shared values, regulatory norms and institutions to promote and protect them, including mechanisms for collective action to protect democratic institutions.

(7) The international promotion and protection of democracy and its increasing regulation as an international obligation in various regional and subregional forums, as well as the granting to individuals and peoples of subjective powers to demand a democratic form of government or the enforceability of their political rights, are spurring legal writers to affirm an emerging right to democracy.

(8) Nevertheless, despite their legitimacy, democratic systems of government are faced in many countries with problems related to their functioning, representativeness and legitimacy.

(9) These problems are related to the lack or weakness of mechanisms for dialogue and participation that would enable civil society and the people at large - especially the poorest and most marginalized in society - to have more of a say in policy decisions and in the authorities' actions and monitoring procedures.

(10) The persistence of poverty and critical levels of poverty, the exclusion and marginalization of large sectors of the population and the lack of development opportunities are also serious situations and a potential source of conflict that militate against good governance and democratic stability.

(11) Corruption, especially when it becomes systematic and affects government institutions, is a serious threat not only to democracy but also to the rule of law itself, because of its implications for impunity.

(12) Beyond the norms and institutional mechanisms adopted in the international arena to promote, consolidate or protect the institution of democracy, it is essential that international action should adopt a holistic approach and should recognize the links between democracy, human rights, the rule of law, good governance and the integrity of the public authorities, and structural supports for democracy, such as the fight against poverty and extreme poverty, development, social cohesion, inclusive social policies and the integration of women in the political process and productive activities.

Notes

[1] See E/CN.4/1999/167 and Add.1.

[2] Norberto Bobbio points out in this respect that "the only way to understand each other when speaking of democracy, as an alternative to all forms of autocratic government, is to regard it as characterized by a set of rules (primary or basic rules) establishing who is authorized to take collective decisions and under which procedures" (N. Bobbio, *El futuro de la democracia,* Bogotá, Fondo Futura Económica, 1997, p. 24).

[3] Organization of American States, Inter-American Democratic Charter, Washington, DC, 2001, art. 2.

[4] Universal Declaration of Human Rights, General Assembly resolution 217A (III), of 10 December 1948.

[5] Ibid.

[6] Ibid., arts. 7-11.

[7] *Constitución Política Méxicana,* Mexico City, Andrade SA, 1964, arts. 103 and 107.

[8] Universal Declaration of Human Rights (see note 4 above), art. 21, para. 3.

[9] International Covenant on Civil and Political Rights, General Assembly resolution 2200 A (XXI), of 16 December 1966, art. 25.

[10] Charter of the Organization of American States, Washington D.C., OAS, 1998.

[11] 1948 American Declaration of the Rights and Duties of Man, art. XX.

[12] A/51/761, para. 27.

[13] Of the 11 territories subject to the international trusteeship system, Togoland, Tanganyika, Cameroon, Rwanda, Burundi, Samoa, Nauru and Papua New Guinea achieved independence or self-government by democratic means.

[14] J.P. Cot and A. Pellet, *La Charte des Nations Unies,* Paris, Economica-Bruylant, 1985, p. 1114.

[15] Report of the Secretary-General on enhancing the effectiveness of the principle of periodic and genuine elections (A/46/609), para. 32.

[16] Ibid. (A/52/474), para. 3.

[17] Ibid. (A/56/344).

[18] See A/52/18, of 2 March 1998, A/51/31, of 20 January 1997, A/50/133, of 16 February 1996, and A/49/30, of 22 December 1994.

[19] American Declaration of the Rights and Duties of Man, 1948.

[20] M. Rodríguez Cuadros, "La evolución de las relaciones interamericanas", *Política Internacional,* Lima, Centro Peruano de Estudios Internacionales (CEPEI), 1998.

[21] A.B. Tickner, compiler, *Sistema interamericano y democracia,* Washington, 2000.

[22] Adopted on 11 September 2001.

[23] The democracy clause was established in the Andean Community by means of the Andean Community Commitment to Democracy (Lima, 10 June 2000); in MERCOSUR by means of the Ushuaia Protocol on Democratic Commitment; and in the Rio Group by means of the Declaration on the Defence of Democracy, adopted in Asunción on 4 August 1997.

[24] Letter dated 23 April 1993 from the Commonwealth Secretary-General addressed to the Assistant Secretary-General for Human Rights (A/CONF.157/PC/89), para. 4.

[25] See Official Journal of the European Communities, No. C230, 26 August 1993.

[26] A. Cancado Trindade, "Democracia y derechos humanos: el régimen emergente de la promoción internacional de la democracia y del estado de derecho", in *La Corte y el Sistema Interamericano de Derechos Humanos*, San José de Costa Rica, Inter-American Commission on Human Rights, 1994, p. 524.

[27] See S.D. Krasner, ed., *International Regimes*, Cornell University Press, 1993.

[28] A. Cancado Trindade, op. cit.